

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Joint Application of California Water Service Company and Grand Oaks Water Company to transfer ownership of the assets of Grand Oaks Water Company to California Water Service Company under Certain Terms and Conditions and to transfer the Certificate of Public Convenience and Necessity to provide water service to the name of California Water Service Company.

Application 05-12-012  
(Filed December 12, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING ON  
RESULTS OF TELEPHONIC PREHEARING CONFERENCE**

**Summary**

On March 2, 2006, applicant California Water Service Company (Cal Water) and the Division of Ratepayer Advocates (DRA), which is the sole protestant and the only other party to the proceeding besides the joint applicants, participated in a telephonic prehearing conference (PHC) before the assigned administrative law judge (ALJ), Steven Kotz. The participants agreed that DRA would explore alternatives to the acquisition of the Grand Oaks Water Company (Grand Oaks) by Cal Water. Cal Water commits to cooperate with DRA by allowing inspections of Grand Oaks facilities and site visits.

**Background**

Cal Water's involvement with Grand Oaks is described in Decision (D.) 05-08-007 and other decisions cited there. Stated briefly, Cal Water has

operated Grand Oaks for several years, but for all practical purposes Grand Oaks has had no owner and thus nowhere to turn for the resources necessary to lift the long-standing moratorium on new hook-ups. In D.05-08-007, the Commission ordered Cal Water to file, jointly with the nominal owner of Grand Oaks, an application to acquire Grand Oaks; the Commission also allowed Cal Water to propose conditions for the acquisition. The Commission directed Cal Water to continue to operate Grand Oaks until further order.

This application duly followed. Cal Water proposed ratemaking treatment beyond that historically provided by the Commission as incentive for large water utilities to acquire small, poorly-run water utilities such as Grand Oaks. DRA protested the application.

Through a series of e-mail communications, ALJ Kotz set a telephonic PHC. (A print-out of this series is Attachment A to this ruling.) ALJ Kotz urged DRA and the applicants to meet-and-confer before the PHC “to develop as many agreements” as possible. To assist in potentially resolving some of the grounds for DRA’s protest, ALJ Kotz stated his views regarding the goals of this joint application and the various Commission orders leading up to it.

### **Discussion at PHC**

The following persons participated in the PHC: Stan Ferraro on behalf of the joint applicants; Marcelo Poirier, Diana Brooks, and Danilo Sanchez on behalf of DRA; and ALJ Kotz.

Ferraro indicated that DRA and Cal Water had met but had not achieved any resolution of issues.

Brooks indicated that there was yet an alternative to litigation, namely, exploring alternatives to Cal Water’s acquisition of Grand Oaks. She said that a number of governmental entities are potentially better suited, especially

considering that the closest Cal Water facilities are about 50 miles away from Grand Oaks.

According to Brooks, DRA has initially approached the City of Tehachapi; the Grand Oaks system is just outside the city limits. There may also be a community services district nearby.

Ferraro agreed with Brooks about the relative remoteness of Cal Water facilities. He said Cal Water does not oppose DRA's exploration of alternatives, and would cooperate as needed, e.g., through arranging site visits or facilities inspections. Ferraro also said Cal Water would continue operating Grand Oaks under the current arrangement.

ALJ Kotz then authorized DRA to explore alternatives but required DRA to give status reports regarding its progress. The first such report would be due on or about 90 days after the PHC, but ALJ Kotz also indicated that DRA should provide an update whenever it had a significant development to report.

### **March 6 Progress Update**

Poirier provide DRA's first update on March 6. (A print-out is Attachment B to this ruling.) He indicated that the City Manager for the City of Tehachapi had concluded the city would not be interested in purchasing or running Grand Oaks. However, the city is willing to help explore alternatives in the area, and DRA is continuing its efforts.

### **Discussion**

Pursuing alternatives for the disposition of Grand Oaks seems reasonable. The Commission has never expressed a preference for Cal Water to the exclusion of other possible acquirers. Moreover, Cal Water has made clear that, at most, it is a reluctant acquirer of Grand Oaks. Cal Water's involvement with Grand Oaks came about indirectly, when Cal Water merged some years ago with another

large water utility then operating Grand Oaks on an emergency basis. Cal Water has operated Grand Oaks ever since but has never shown any eagerness to acquire it.

The pursuit of alternatives, however, must not go on indefinitely. Grand Oaks has lacked committed ownership since 1997, if not earlier. A moratorium on new hook-ups exists and may be stifling local development. Lifting the moratorium requires an owner with resources for planning and investment in the Grand Oaks system.

DRA did well to provide the March 6 update, disappointing as the results may have been. I confirm my direction at the PHC that DRA continue to provide updates whenever it has significant events to report. But by June 2, 2006, at the latest, DRA must report on whether its efforts have either (1) produced an alternative acquirer, or (2) have been unsuccessful. If the latter, I will consider further procedural steps to resolve this proceeding. These steps may include hearing, briefs, or both. In planning these steps, I will likely convene a second PHC to consult with the parties.

Conceivably, as of June 2, DRA may want additional time to explore alternatives. In that event, DRA must state circumstances justifying the further delay. I am unlikely to grant the request for additional time unless, as of June 2, DRA can specify an entity that it regards as a suitable acquirer, and that is actively considering the acquisition of Grand Oaks.

If an alternative acquirer is found, the joint applicants shall amend the existing application so as to seek approval for the transfer of Grand Oaks to the alternative acquirer. It is necessary for Cal Water to remain a party to the amended application both to assist the surviving nominal owner of Grand Oaks

and to be relieved of its current obligation to operate Grand Oaks until further order of the Commission.

**IT IS SO RULED.**

Dated March 21, 2006, at San Francisco, California.

/s/ STEVEN KOTZ  
STEVEN KOTZ  
Administrative Law Judge

# ATTACHMENT A

**ATTACHMENT A**  
**Page 1**

**Kotz, Steven**

---

**From:** Ferraro, Stan [sferraro@calwater.com]  
**Sent:** Monday, February 27, 2006 5:17 PM  
**To:** Kotz, Steven  
**Subject:** RE: A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC

Steve,  
That's my number.

---

**From:** Kotz, Steven [mailto:KOT@cpuc.ca.gov]  
**Sent:** Monday, February 27, 2006 4:59 PM  
**To:** Poirier, Marcelo; Ferraro, Stan  
**Cc:** Curry, Fred L.  
**Subject:** RE: A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC

To the Parties:

Today I directed that Mr. Quang Tran be added to the information-only list for this proceeding.  
Please see the attachments.

As you know, our telephonic prehearing conference on March 2 starts at 10 am. Please send me the telephone numbers you would like me to use. Unless I hear otherwise, I'm assuming that the following numbers are correct:

For Marcelo Poirier—415-703-2913

For Stan Ferraro—408-367-8225

Steven Kotz, Assistant Chief  
Administrative Law Judge  
[kot@cpuc.ca.gov](mailto:kot@cpuc.ca.gov)  
Phone: 415-703-2437  
Fax: 415-703-1723

**ATTACHMENT A**

**Page 2**

---

**From:** Kotz, Steven  
**Sent:** Friday, February 10, 2006 10:20 AM  
**To:** Poirier, Marcelo  
**Cc:** 'sferraro@calwater.com'  
**Subject:** RE: A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC

OK, it will be Thursday, March 2, 2006 at 10 a.m. I will take care of dialing up the two of you.  
Thanks again!

Steven Kotz, Assistant Chief  
Administrative Law Judge  
[kot@cpuc.ca.gov](mailto:kot@cpuc.ca.gov)  
Phone: 415-703-2437  
Fax: 415-703-1723

---

**From:** Poirier, Marcelo  
**Sent:** Friday, February 10, 2006 10:12 AM  
**To:** Kotz, Steven  
**Subject:** RE: A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC

Yes, 10am on March 2 would work.

---

**From:** Kotz, Steven  
**Sent:** Friday, February 10, 2006 10:07 AM  
**To:** Poirier, Marcelo  
**Cc:** Hoang, Ann T.  
**Subject:** RE: A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC

OK, thanks, it will be March 2. Did you guys work out any preference on time? Would 10 a.m. work?

---

**From:** Poirier, Marcelo  
**Sent:** Friday, February 10, 2006 9:41 AM  
**To:** Kotz, Steven  
**Subject:** RE: A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC

Judge Kotz,

I have discussed the PHC dates with staff and decided the best date for us would March 2, second best is February 24.

**ATTACHMENT A**  
**Page 3**

Please let me know if you have any further questions.

Marcelo L. Poirier  
Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue, Room 5025  
San Francisco, CA 94102  
Tel. (415) 703-2913  
Fax. (415) 703-2262

---

**From:** Kotz, Steven  
**Sent:** Thursday, February 09, 2006 11:16 AM  
**To:** sferraro@calwater.com; Poirier, Marcelo  
**Cc:** Curry, Fred L.; Hoang, Ann T.  
**Subject:** A.05-12-012 [proposed transfer of Grand Oaks WC]: Telephonic PHC  
**Importance:** High

To Applicant Cal Water and Protestant DRA:

I apologize for my delay; I was out of the office through February 3.

I would like to hold a telephonic PHC in this matter. I will not have a reporter at this PHC, but I will memorialize by ruling any agreements or directives resulting from the PHC.

I request two things of the parties.

--First, please discuss and then advise me of at least two proposed dates/times that are acceptable to the two of you for this PHC. For your guidance, right now my calendar is completely open on February 23, 24, and 28, March 2 and March 8. I can also accommodate February 22 [am], March 1 [pm], and March 7 [am]. I think an hour should be adequate for our purposes.

--Second, in advance of the PHC, please discuss the issues raised by the protest and develop as many agreements as you can. For your guidance, I state my views as follows: The various PUC orders to date regarding Grand Oaks have NOT invited any generic change to the PUC's rules applicable to the acquisition of water utilities or to the incentives for the acquisition of small, poorly managed companies; rather, those orders are directly solely to resolving the anomalous circumstances affecting Grand Oaks' ownership. In particular, no change to D.99-10-064 could result from A.05-12-012. Further, despite the generality of some of Cal Water's remarks in A.05-12-012, I do not understand Cal Water to be proposing generic changes within this application.

**ATTACHMENT A**

**Page 4**

In addition, I ask that Cal Water determine how, if at all, the co-applicant [Brit Smith] wishes to participate in the PHC. If instead of direct participation, he agrees to have Cal Water represent him at the PHC, that is acceptable, but Cal Water should be prepared to so indicate. (Note that I cannot include Smith in this message as Smith apparently does not have e-mail service.)

If you have questions regarding any of the above, please let me know ASAP. Thank you in advance for helping to move this proceeding swiftly and fairly.

Steven Kotz, Assistant Chief  
Administrative Law Judge  
[kot@cpuc.ca.gov](mailto:kot@cpuc.ca.gov)  
Phone: 415-703-2437  
Fax: 415-703-1723

**(END OF ATTACHMENT A)**

# **ATTACHMENT B**

**ATTACHMENT B**

**Kotz, Steven**

---

**From:** Poirier, Marcelo

**Sent:** Monday, March 06, 2006 9:01 PM

**To:** Kotz, Steven

**Cc:** 'sferraro@calwater.com'; Sekhon, Jasjit; Brooks, Diana; Sanchez, Danilo E.

**Subject:** Progress Update on Grand Oaks

Dear Judge Kotz,

A brief update on the efforts as to other options for Grand Oaks.

After further discussion with the City of Tehachapi's City Manager, they concluded and informed us that the City of Tehachapi is not interested in purchasing or running the Grand Oaks Water Company. However, they indicated that a willingness to help explore alternatives in the area.

We are currently investigating other options. We will provide progress updates as information becomes available.

Please contact me if you have any questions.

Sincerely,

Marcelo L. Poirier  
Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue, Room 5025  
San Francisco, CA 94102  
Tel. (415) 703-2913  
Fax. (415) 703-2262

**(END OF ATTACHMENT B)**

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Results of Telephonic Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated March 21, 2006, at San Francisco, California.

/s/ ELVIRA NIZ

Elvira Niz

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.